

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4420 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

J. M. CHAUHAN

Versus

GOVT. OF GUJARAT & OTHERS

Appearance:

MR JD AJMERA for the Petitioner
MR HL JANI for Respondent No. 1
None present for other respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/09/96

ORAL JUDGEMENT

1. The grievance of the petitioner is that the action of the respondent not to give the petitioner, the benefit of the pay-scale prescribed for trained graduate from the date on which the petitioner acquired the higher qualification, is highly arbitrary and illegal.
2. Prior to bifurcation of the school into primary section and secondary section which has taken place in

the year, 1965, the petitioner was serving admittedly in the secondary section. After bifurcation, the petitioner became the protected teacher and he was placed in the primary section, but in the year 1976, the petitioner acquired the degree of graduation. From 1-1-1973, the pay of the trained graduate teacher was of Rs.440-640, and after acquiring the aforesaid qualification, the petitioner prayed for giving him the pay-scale from the date of acquisition of the degree of graduation. That claim was rejected. Hence, this Special Civil Application.

3. It is no more *res integra* that the petitioner being a protected teacher, he is entitled for the benefit of the pay-scale of the trained graduate from the date on which he acquired the higher qualification. This view has been taken by this court in many matters and as such, no further adjudication is required to be made on this issue. The learned counsel for the respondent also does not dispute that the matter is no more *res integra*.

4. In the result, this Special Civil Application is allowed. The order of the respondent dated 26th November, 1982 is set aside. It is hereby declared that the petitioner is entitled for the benefit of the pay-scale of Rs.440-640 from 1976 and onwards. The respondents are directed to determine the arrears of the amount payable to the petitioner on fixation of his pay in the pay-scale of Rs.440-640 within a period of three months from the date of receipt of certified copy of this order. The payment of the amount of the arrears may be made to the petitioner within two months next thereafter. However, it is made clear that while fixing the pay in the revised pay-scale the respondents shall give the petitioner the benefit of the yearly grade increments, if otherwise not withhold, as well as the benefit of further revised pay-scale, if any revised, meanwhile. Rule is made absolute in the aforesaid terms with no order as to costs.

zgs/-